IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

CRL.A.No. 125 of 2002()

CC.307/1998 of JUDL.MAGISTRATE OF FIRST CLASS, PARAVOOR

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APPELLANT: COMPLAINANT

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1. A.SHAMSUDEEN(DIED ON 8.3.99 AND LR IS IMPLEADED BEFORE THE COURT BELOW)
   S/O.ABDUL LATHEEF, MEEN MANZIL, THEKUMBHAGOM MURI, KOTTAPPURAM VILLAGE, PARAVOOR, KOLLAM DISTRICT.

2. BUHARI, S/O.SHAMSUDEEN,DO.DO.

BY ADV. SRI.A.P.CHANDRASEKHARAN (SR.)
SMT.PRABHA R.MENON
SRI.PUSHPARAJAN KODOTH
SRI.M.KRISHNAKUMAR
SRI.K.JAYESH MOHANKUMAR

RESPONDENTS: ACCUSED AND PROSECUTOR)

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1. MRS. KURSHEEDA SRAJ, PROPRIETRIX,
   NISHANA OIL MILLS, BEACH NORTH,
   KOLLAM-6, KOLLAM DISTRICT.

2. THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.125 of 2002

Dated this the 25th day of July, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent. It is submitted by the complainant that he was not well on the particular day.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 16.8.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl